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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 002056

SIPDIS

DEPARTMENT FOR EUR/SE

E.O. 12958: DECL: 03/28/2008

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#)

SUBJECT: LEYLA ZANA RETRIAL OPENS; COURT DENIES RELEASE REQUEST

REF: A. ANKARA 1578

[1](#)B. ANKARA 1362

[1](#)C. 02 ANKARA 8881

[1](#)D. 02 ANKARA 6116

Classified by Acting Political Counselor Nicholas S. Kass.
Reasons: 1.5(b)(d).

[1](#)1. (C) Summary: The historic retrial of Leyla Zana and three other Kurdish former M.P.s began March 28 under tight security. The court ruled against releasing the defendants pending the outcome of the trial and rejected a defense petition seeking a new chief judge. Turkish and international human rights advocates and foreign diplomats attended the packed hearing. The next session will be held April 25. End Summary.

Packed Hearing

[1](#)2. (U) The retrial of Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak -- former Members of Parliament from the pro-Kurdish Democracy Party (DEP -- since banned) -- began under tight security March 28 in an Ankara State Security Court. The retrial is the first granted under a recent EU-related reform measure allowing for retrial in a Turkish court pursuant to rulings of the European Court of Human Rights (ECHR -reftel B). The former M.P.s were convicted, in a controversial 1994 trial, of membership in an illegal organization (the PKK).

[1](#)3. (U) The courtroom was filled to capacity; in addition to two Embossos, the audience included: numerous relatives of the defendants; Turkish and international Kurdish/human rights advocates; diplomats from Germany, Denmark, and the EU; and the Chairman and Vice Chairman of the Parliamentary Human Rights Committee. Lead defense attorney Yusuf Alatas told Poloff more than 300 attorneys had asked to participate in the case, but he accepted only 25 in order to reduce tensions in the courtroom and allow more space for observers. (Note: High-profile cases in Turkey often include 100 or more lawyers, though all but a few are glorified spectators. End Note.) There was a heavy police and military presence inside and outside the courtroom, but no visible tensions.

Ruling: Defendants Stay Behind Bars

[1](#)4. (U) The three-judge court ruled unanimously against a motion asking that the defendants be released pending the outcome of the trial. The court also unanimously rejected defense petitions asking for the replacement of the court's Chief Judge on the grounds that he had voted against granting the retrial and was therefore not impartial. All four defendants gave lengthy opening statements. Dicle argued that the remarks for which he was convicted had subsequently been mirrored in comments by State officials -- and thus decriminalized -- during his incarceration. "We have already been in jail longer than any political prisoners in Turkish history," Dicle charged.

[1](#)5. (U) The court set April 25 as the date of the next hearing. It also ordered that travel funds be made available to enable out-of-town witnesses to attend, and that civil servant witnesses be excused from work in order to testify.

COMMENT

16. (C) This trial will be closely watched -- particularly by EU observers looking to test the sincerity of GOT human rights reforms. The court's refusal to release the defendants or appoint a new chief judge does not bode well for an acquittal. At the same time, the GOT is reeling from the recent ECHR ruling that jailed PKK leader Abdullah Ocalan did not receive a fair trial (Reftel A), and is under pressure to be on its best behavior in this case. At a time when Turkey appears to be alienating its foreign friends left and right, the GOT can ill afford a perception of juridical legerdemain.

PEARSON